

**ORDINANCE NO. 07-30**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW CONSTRUCTION OF A SINGLE FAMILY RESIDENCE ON LOT 26, HAVING A FRONTAGE OF 40 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, AND A TOTAL AREA OF 5,400 SQUARE FEET, MORE OR LESS, WHERE AT LEAST 7,500 SQUARE FEET ARE REQUIRED, AND A FRONT SETBACK OF 28.5 FEET, WHERE 30 FEET ARE REQUIRED; AND ALLOW THE EXISTING RESIDENCE TO REMAIN ON LOT 27 AND THE WEST 4.67 FEET OF LOT 28, HAVING A FRONTAGE OF 44.67 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, AND A TOTAL AREA OF 6,030 SQUARE FEET, MORE OR LESS, WHERE AT LEAST 7,500 SQUARE FEET ARE REQUIRED, AND A WEST SIDE SETBACK OF 4.5 FEET, WHERE 5 FEET 1 INCH IS REQUIRED, CONTRA TO HIALEAH CODE § 98-348(a). **PROPERTY LOCATED AT 412 WEST 16 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the Planning and Zoning Board at its meeting of January 24, 2007 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow construction of a single family residence on Lot 26, having a frontage of 40 feet, where at least 75 feet are required, and a total area of 5,400 square feet, more or less, where at least 7,500 square feet are required, and a front setback of 28.5 feet, where 30 feet are required; and allow the existing residence to remain on Lot 27 and the west 4.67 feet are required, and a total area of 6,030 square feet, more or less, where at least 7,500

square feet are required, and a west side setback of 4.5 feet, where 5 feet 1 inch is required, contra to Hialeah Code § 98-348(a), which provides in pertinent part: . . . No building permits shall be issued for the erection of future structures on existing legally divided parcels of unimproved land in R-1 . . . unless they shall . . . have an area of at least 6,480 square feet. However, whenever it shall appear that an owner or his predecessors in title owned a legally divided parcel of land having an area less than 6,480 square feet and more than 5,100 square feet with a minimum average width of at least 40 feet and a minimum average depth of at least 100 feet on February 26, 1974, and if it shall appear that the owner or his predecessors in title owned no other adjacent property at such time or since such time . . . and provided, further; that such future structures are to maintain a 30-foot front yard setback, . . . and five-foot one-inch side setbacks", respectively. Property located at 412 West 16 Street, Hialeah, Miami-Dade County, Florida, zoned R-1 (One Family District), and legally described as follows:

LOTS 26, 27, AND THE WEST 4 FEET 8 INCHES OF  
LOT 28, LUNSFORD GARDENS, ACCORDING TO  
THE PLAT THEREOF, AS RECORDED IN PLAT BOOK  
30, PAGE 4, OF THE PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative

tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

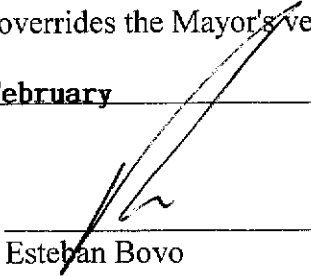
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27th day of February, 2007.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

Attest:

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2007.

**MAYOR'S SIGNATURE WITHHELD**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

Ordinance was passed and adopted by the Hialeah City Council on February 27, 2007 and became effective March 13, 2007 without Mayor's signature.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".